

EXHIBIT 1

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK**

SUFFOLK COUNTY WATER
AUTHORITY,

Plaintiff,

-against-

THE DOW CHEMICAL COMPANY,
FERRO CORPORATION, VULCAN
MATERIALS COMPANY, PROCTER &
GAMBLE COMPANY, and SHELL OIL
COMPANY, individually and doing business
as SHELL CHEMICAL LP,

Defendants.

AND ALL RELATED CASES

Case No. 17-CV-6980-NG-RLM and
all Related Cases

Hon. Nina Gershon

Hon. Roanne L. Mann

AGREED PROPOSED SUPPLEMENTAL CASE SCHEDULING ORDER

1. **WHEREAS**, the Court entered a Scheduling Order on February 17, 2021 [ECF No. 168] (February 17, 2021 Scheduling Order) that gave the first-filed Suffolk County Water Authority (“SCWA”) case priority for the completion of all of its discovery, including expert discovery;

2. **WHEREAS**, the February 17, 2021 Scheduling Order: (i) contemplates that discovery of all defendants in all cases will be complete upon completion of plaintiffs’ discovery of the defendants in the SCWA case; (ii) precluded the depositions of any Party or consultant in any case proceeding before third-party defendants had been added in the Related Cases; and (iii) requires that depositions in cases other than the SCWA case be limited to no more than 65 depositions of Plaintiffs and their consultants, and be taken with an eye toward

determining whether there are common issues that can be subject to joint motions/trials, and what order of priority, after the SCWA case, they choose to propose;

3. **WHEREAS**, the February 17, 2021 Scheduling Order directs that proposals regarding prioritization of cases other than the SCWA case, including potential common issues for management of those cases, should be submitted to the Court, following efforts by the parties to reach agreement, at the time of the completion of fact discovery in the SCWA case;

4. **WHEREAS**, after entering the February 17, 2021 Scheduling Order, the Court entered a related Scheduling Order on March 19, 2021 [ECF No. 171] (March 19, 2021 Scheduling Order) that set the following schedule for discovery:

Substantial Completion of Party Document Discovery (outstanding requests)	March 31, 2021
Joint status reports due (approximately every 90 days)	June 3, 2021 forward
Deadline to add third-party defendants in any of the 27 cases	July 16, 2021
Commencement of party (and consultant) depositions in all 27 cases, as per the Court's 2/17/21 Scheduling Order at 2	September 8, 2021
Completion of Fact Discovery in SCWA and date for submissions regarding additional prioritized cases, as per the Court's 2/17/21 Scheduling Order at 2	June 3, 2022
Affirmative expert reports due in the SCWA case	September 2, 2022
Responsive expert reports due in the SCWA case	November 1, 2022
Completion of expert depositions in the SCWA case	December 2, 2022

5. **WHEREAS**, on June 24, 2021, upon Defendants' unopposed motion, the Court amended the deadline to add third-party defendants in any of the cases from July 16, 2021

to August 30, 2021, but left the other dates in the March 19, 2021 Scheduling Order unchanged. [ECF No. 184];

6. **WHEREAS**, on August 30, 2021, Defendants filed third-party complaints in 17 of the cases, which included the addition of 84 new third-parties, and on October 22, 2021, the Court severed and stayed the third-party claims until resolution of the Plaintiffs' claims or further order of the Court [ECF No. 243];

7. **WHEREAS**, the Parties have served nearly 200 Subpoenas on non-parties seeking documents and/or deposition testimony, and since the Court entered the March 19, 2021 Scheduling Order, the Parties have completed the following fact discovery: (a) over 1.1 million documents totaling approximately 11 million pages have been collectively produced by approximately 100 Parties and non-parties in response to the Parties' Requests for Production and Subpoenas; and (b) depositions of 29 Party and non-party witnesses have taken place;

8. **WHEREAS**, the Parties represent that, despite their best efforts, due to delays and complications caused by COVID shutdowns and delays in receipt of responsive documents from various third parties, including third-party agencies, the Parties require limited, additional time to complete certain fact discovery in the SCWA case;

9. **WHEREAS**, the Parties agree not to notice any new party depositions in connection with fact discovery in the SCWA case without agreement or Court Order, but request a short extension of the existing dates to complete depositions, and resolve any open issues related to document productions and third-party subpoenas;

10. **WHEREAS**, the Parties are conferring regarding multiple legal and factual issues that may affect prioritization and case management for trial;

NOW, THEREFORE, the Parties stipulate, and respectfully request that the Court modify the March 19, 2021 Scheduling Order, as follows:

Completion of Fact Discovery in SCWA	August 9, 2022
By this date the Parties are to make: (i) a joint submission that identifies what the Parties have agreed to concerning (a) additional prioritized cases, as per the Court's 2/17/21 Scheduling Order at 2, and (b) any other case management and scheduling issues, including those identified in paragraph 10 above; and (ii) simultaneous submissions by each Party that identifies the Parties' position on any areas to which agreement was not reached, and the basis for their position.	August 16, 2022
Affirmative expert reports due in the SCWA case	October 18, 2022
Responsive expert reports due in the SCWA case	December 20, 2022
Completion of expert depositions in the SCWA case	February 14, 2023

Respectfully submitted,

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cc: All Counsel of Record (by ECF)

SO ORDERED.

HON. NINA GERSHON
UNITED STATES DISTRICT JUDGE

HON. ROANNE L. MANN
UNITED STATES MAGISTRATE JUDGE